

*Number of ginned cotton bales* means the number of ginned running bales of cotton based on individual bale weights unadjusted to a uniform bale weight.

*Running bale* means a bale of cotton lint that has a minimum weight of 425 pounds and is not a bale of motes, linters, gin waste, or other gin byproduct.

*Ton* means a unit of weight equal to 2,000 pounds avoirdupois (907.18 kilograms).

**§ 1427.1103 Eligible cottonseed.**

*To be eligible for payments under this subpart, cottonseed must:*

(a) Have been grown in the United States during the 2002-crop production period.

(b) Have been ginned by the applicant from 2002-crop cotton.

(c) Not have been destroyed or damaged by fire, flood, or other events such that its loss or damage was compensated by other local, State, or Federal government or private or public insurance or disaster relief payments.

**§ 1427.1104 Eligible first handlers.**

(a) For the purpose of this subpart, an eligible first handler of cottonseed shall be a gin that ginned 2002-crop cotton.

(b) Applicants must comply with the terms and conditions set forth in this subpart and instructions issued by CCC, and sign and submit an accurate, legible and complete Cottonseed Payment Program Application and Certification.

(c) Applicants signing the cottonseed payment application or receiving payment under this subpart must share any payment with the producer of the cotton that was the basis of the cottonseed payment to the extent that the effect of low cottonseed prices was borne by the producer rather than the gin. To the extent that such funds will be shared with the producer by the gin, those funds will be considered to have been received by the applicant on behalf of such producers.

**§ 1427.1105 Payment application.**

(a) Payments in accordance with this subpart shall be made available only to eligible first handlers of cottonseed based on information provided on a

Cottonseed Payment Program Application and Certification.

(b) Payment applications must be received by the program application deadline announced by CCC. Applications received after such application deadline will not be accepted for payment.

(c) Cottonseed Payment Program Application and Certifications may be obtained from the CCC as announced by press release. In order to participate in the cottonseed payment program under this subpart, first handlers of cottonseed must execute and submit to CCC according to announced instructions the Cottonseed Payment Program Application and Certification.

**§ 1427.1106 Available funds.**

The total available program funds shall be \$50 million for 2002-crop cottonseed.

**§ 1427.1107 Applicant payment quantity.**

The applicant's payment quantity of cottonseed will be determined by CCC based on the eligible number of ginned cotton bales and the cotton lint weight from those bales as submitted on the Cottonseed Payment Application and Certification and/or obtained by CCC, with the agreement of the applicant, from the Agricultural Marketing Service. The applicant's payment quantity of cottonseed shall be calculated by multiplying:

(a) The applicant's weight of eligible lint for which payment is requested, as approved by CCC, by;

(b) The national Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC for the 5 years preceding the 2002 crop year.

**§ 1427.1108 Total payment quantity.**

The total quantity of 2002-crop cottonseed produced in the United States is potentially eligible for payment under this subpart. The total payment quantity of cottonseed will be the total of eligible quantities of cottonseed for which completed applications for payment are received within the application period announced by CCC. Eligible cottonseed for which no application is

## § 1427.1109

## 7 CFR Ch. XIV (1–1–04 Edition)

received according to announced application instructions shall not be included in the total payment quantity of cottonseed. The total payment quantity of cottonseed (ton-basis) shall be calculated by multiplying:

(a) The weight of cotton lint (ton-basis) for which payment is requested by all applicants, as approved by CCC, by

(b) The national Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC for the 5 years preceding the crop year for which the cottonseed payments are provided.

### § 1427.1109 Payment rate.

The payment rate (dollars per ton) for the purpose of calculating payments made available in accordance with this subpart shall be determined by CCC by dividing the total available program funds by the total eligible payment quantity of cottonseed unless the calculation would provide an excess rate of payment in which case an alternative method will be used as determined appropriate by CCC.

### § 1427.1110 Payment calculation and form.

(a) Payments in accordance with this subpart shall be determined for individual applicants by multiplying:

(1) The payment rate, determined in accordance with § 1427.1109, by

(2) The eligible payment quantity of the applicant, determined in accordance with § 1427.1107 and other provisions of this subpart.

(b) After receipt of the application for payment, CCC will issue payments to the applicant by electronic funds transfer to the applicant's account except that applicants may request that payment be made by mailed check.

### § 1427.1111 Liability of first handler.

(a) If any person makes any erroneous or fraudulent representation in obtaining a cottonseed payment under this part, or in connection with such a payment engages in a scheme or device that tends to defeat the purposes of this program, the person shall be liable to CCC for the amount of the payment and interest on such payment as determined by CCC. Such remedy will be in

addition to whatever additional remedies may be allowed by law.

(b) If more than one person executes a program payment application with CCC and payments are made thereunder, each such person shall be jointly and severally liable for any violation of the terms and conditions for any payment made to anyone under that application or for any refund due from any person signing that application. Such liability shall remain until payment in full is made of any such refund and its related charges.

(c) If a person receives a program payment in excess of the amount authorized by this subpart, that person shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

(d) From the date of the payment application until the earlier of 3 years after the date of the application or July 31, 2006, the applicant shall keep records, including records supporting the quantity of cottonseed for which payment was requested, and furnish such information and reports relating to the application to CCC as requested. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received, plus interest thereon, as determined by CCC. In the event of a controversy concerning payments or questions involving the payments, records must be kept for such longer period as may be specified by CCC until such controversy is resolved.

## Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program

SOURCE: 67 FR 64459, Oct. 18, 2002, unless otherwise noted.

### § 1427.1200 Applicability.

(a) These regulations set forth the terms and conditions under which CCC shall make payments, in the form of